

United States Courts
Southern District of Texas
FILED
SEP 20 2019
David J. Bradley, Clerk of Court

AO 91 (Rev. 11/11) Criminal Complaint

UNITED STATES DISTRICT COURT

for the

Southern District of Texas

United States of America
v.
Emmanuel O'Hairon MCNICKLES

Case No.

6:19mj78

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of September 19, 2019 in the county of Victoria in the
Southern District of Texas, the defendant(s) violated:

Code Section

8 U.S.C. § 922 (g)(1)

Offense Description

Defendant did knowingly possessed a firearm; to wit, a loaded black
Detonics .40 caliber handgun, serial number 3818, and a loaded black SKS
7.62mm caliber rifle, serial number, after having been convicted of a crime
punishable by a term exceeding one year, which is in violation of Title 18,
United States Code Section 922 (g)(1).

This criminal complaint is based on these facts:

See affidavit.

☒ Continued on the attached sheet.

Complainant's signature

Robert C. Nichols, ATF Task Force Officer

Printed name and title

Submitted by reliable electronic means, sworn to,
Signature attested telephonically per
Fed.R.Crim.P.4.1 and probable cause found:
Date: 09/20/2019

Judge's signature

B. Janice Ellington, U.S. Magistrate Judge

Printed name and title

City and state: Corpus Christi, TX

6:19mj78

AFFIDAVIT IN SUPPORT OF AN ARREST WARRANT

I, Robert Nichols, being duly sworn, depose and state that:

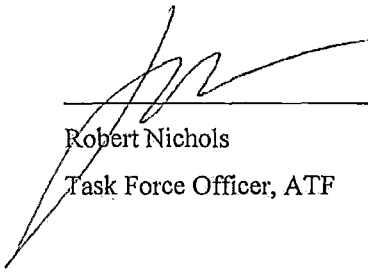
1. Your Affiant is a Task Force Officer with the Bureau of Alcohol, Tobacco, Firearms and Explosives, a Division of the United States Department of Justice. Your Affiant has been employed by the Victoria Police Department as a commissioned peace officer for approximately six (6) years and is currently assigned as a Detective to the Criminal Investigations Division (CID). Your Affiant is a current commissioned peace officer by TCOLE. During the course of this employment, your Affiant has written or assisted in writing numerous search and arrest warrants for investigations ranging from narcotics to homicides. I have received training as a Basic Criminal Investigator as well as specialized training in gang investigations and anti-terrorism investigations. Your Affiant has received additional training in investigations through the High Intensity Drug Trafficking Area Director's Association, the Multijurisdictional Drug Task Force, the El Paso Intelligence Center, the Texas Department of Public Safety, the Texas Gang Investigators Association, the United States Attorney's Office, and the Bureau of Alcohol, Tobacco, Firearms, and Explosives. Your Affiant has conducted and assisted other Agencies, including local, state and federal, with criminal investigations. As a result of your Affiant's training and my experience relating to these statutes and the experience of senior ATF Special Agents, your Affiant knows that it is a violation of:

18 USC 922 (g)(1), for any person who has been convicted in any court of a crime punishable by imprisonment for a term exceeding one year; to possess any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.

2. Your Affiant is familiar with the information contained in this affidavit, either through personal investigation or through discussion with other law enforcement officers, who have participated in and have contributed documentary reports of their investigative efforts in this matter.
3. This investigation began on September 19, 2019, when your Affiant received information regarding potential violations of federal firearms laws by Emmanuel O'Hairon MCNICKLES.
4. On September 19, 2019, your Affiant was contacted by an Officer with the Victoria Police Department who was conducting a traffic stop on a vehicle for failing to signal a turn, with the vehicle stopping in the 3600 block of Hansleman Rd., Victoria, Victoria County, Texas.

5. The Officer told your Affiant that they identified the driver of the vehicle as Emmanuel O'Hairon MCNICKLES, and identified a second occupant inside the vehicle as a passenger. There were no other occupants inside the vehicle.
6. Your Affiant was told by the Officer that reasonable suspicion was developed, and a Victoria Police Department K9 Officer responded to the location. According to the Officer, the K9 Officer stated that the K9 alerted to the odor of narcotics at the vehicle.
7. The Officer told your Affiant that a probable cause search was conducted of the vehicle. As a result of the search, a loaded black Detonics .40 caliber handgun, serial number 3818, was located in the center console of the vehicle, as were two plastic bags which contained a white rock-like substance that was field tested and indicated the presence of cocaine. In addition to this, law enforcement located a loaded black SKS 7.62mm caliber rifle, serial number 24227713P, in the back seat of the vehicle. The handgun and the cocaine were within reach of MCNICKLES as he was operating the vehicle.
8. The passenger of the vehicle was read the Miranda Warning and was interviewed by the Officer. The passenger told the Officer that she was aware of the handgun in the center console, as she observed MCNICKLES remove the handgun from his waistband and place it in the center console when the Officer was attempting to stop the vehicle for the traffic infraction. The passenger also stated that she observed the rifle in the back seat earlier in the day when MCNICKLES was loading the pickup truck with his belongings earlier in the day. The passenger believed that MCNICKLES sells narcotics, as she constantly sees foot traffic at the hotel room that he stayed at, and the fact that she has seen MCNICKLES flashing money without a job. The passenger was ultimately released from the scene.
9. MCNICKLES was arrested by the Victoria Police Department for Felon in Possession of a Firearm, Unlawful Carrying Weapons, and Manufacture/Delivery of a Controlled Substance in Penalty Group 1.
10. Your Affiant offered to interview MCNICKLES at the Victoria Police Department, and MCNICKLES agreed. Your Affiant read MCNICKLES the Miranda Warning and MCNICKLES agreed to speak with your Affiant. MCNICKLES admitted to knowing the handgun, rifle, and cocaine were in the vehicle he was operating. MCNICKLES claimed that he was holding the items for a friend.
11. On September 20, 2019, your Affiant confirmed through the Victoria County District Clerk Office that MCNICKLES was convicted of Burglary of a Habitation in 2010.

12. On September 20, 2019, your affiant consulted with ATF Special Agent David Taylor, Interstate Nexus Expert, regarding the firearms possessed by MCNICKLES and described above. S/A Taylor determined the firearms are firearms as defined in Title 18 United States Code Chapter 44, and the firearms were manufactured outside the state of Texas, after the year 1898, therefore affecting interstate commerce when the firearms arrived in the state of Texas.
13. Based on the above information, your Affiant believes Emmanuel O'Hairon MCNICKLES knowingly possessed a firearm; to wit, a loaded black Detonics .40 caliber handgun, serial number 3818, and a loaded black SKS 7.62mm caliber rifle, serial number 24227713P, after having been convicted of a crime punishable by a term exceeding one year, which is in violation of Title 18, United States Code Section 922 (g)(1).



Robert Nichols

Task Force Officer, ATF

Submitted by reliable electronic means, sworn to, signature attested telephonically per Fed. R. Crim. P.4.1 and probable cause found this 20th day of September 2019.



B. Janice Ellington
U.S. Magistrate Judge